

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

BILLY D. MCKINNIE,

Petitioner,

v.

Case No. 06-C-0922

ROBERT HUMHREYS, Warden,
Racine Correctional Institution,

Respondent.

**ORDER RE: PETITIONER'S MOTION FOR RECONSIDERATION
OF THE COURT'S ORDER OF JULY 2, 2007**

The pro se petitioner, Billie D. McKinnie, a Wisconsin state prisoner, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, which was denied as untimely on January 29, 2007, and judgment was entered accordingly. On March 5, 2007, the petitioner filed a notice of appeal, a motion for leave to proceed in forma pauperis on appeal and a request for a certificate of appealability. The petitioner's request for a certificate of appealability was denied pursuant to Rule 22 of the Federal Rules of Appellate Procedure. The petitioner's motion for leave to proceed in forma pauperis on appeal was denied without prejudice because the petitioner did not file either an affidavit or a copy of his trust fund account statement with the motion.

On August 2, 2007, the petitioner filed his fourth motion for reconsideration, stating that the docket sheet entry dated March 19, 2007, shows that he paid the filing fee of \$455.00 on March 3, 2007. He states that he has filed all the right motions governing his appeal and his

request for habeas corpus relief. He requests that the court reconsider its order of July 2, 2007, denying his motion for reconsideration.

First of all, a review of the docket in this case reveals that the March 3, 2007, docket entry was modified on April 2, 2007, to state that the filing fee was not paid. A copy of the docket is enclosed. Furthermore, as the court has advised the petitioner numerous times, on June 18, 2007, the court of appeals for this circuit advised the petitioner that within the next 30 days he either had to: 1) pay the required \$450.00 docketing fee, plus the \$5.00 filing fee to the District Court Clerk; or 2) file a motion to proceed in forma pauperis with the Court of Appeals with the required documents. The petitioner was advised that if the petitioner did not take either of the above actions within 30 days, his case would be dismissed pursuant to Circuit Rule 3(b).

The appeals court has advised the petitioner as to what he must do to proceed with his case on appeal. Therefore, the petitioner's motion for reconsideration of the court's order of July 2, 2007, will be denied.

ORDER

NOW, THEREFORE, IT IS ORDERED that the petitioner's motion for reconsideration filed August 2, 2007, be and hereby is **denied**. (Docket #44).

Dated at Milwaukee, Wisconsin this 8th day of August, 2007.

BY THE COURT:

s/ Patricia J. Gorence
PATRICIA J. GORENCE
United States Magistrate Judge